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*Counsel for Plaintiff,
Ariel Abittan*

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ARIEL ABITTAN,

PLAINTIFF,

v.

LILY CHAO (A/K/A TIFFANY CHEN, A/K/A
YUTING CHEN), DAMIEN DING (A/K/A
DAMIEN LEUNG, A/K/A TAO DING),
TEMUJIN LABS INC. (A DELAWARE
CORPORATION), AND TEMUJIN LABS INC.
(A CAYMAN CORPORATION),

DEFENDANTS,

and

EIAN LABS INC.,

NOMINAL DEFENDANT.

Case No. 5:20-CV-09340-NC

**PLAINTIFF'S RESPONSE TO ORDER
TO SHOW CAUSE WHETHER A
NOMINAL DEFENDANT MUST
CONSENT TO JURISDICTION**

Judge: Nathanael Cousins

1 Plaintiff Ariel Abittan respectfully submits this Response to the Court's Order to Show
2 Cause Whether a Nominal Defendant Must Consent to Jurisdiction [ECF No. 58].

3 After searching nationwide for federal precedent, Plaintiff has found the following holding,
4 indicating that § 636(c) consent by Nominal Defendant Eian Labs Inc. is required:

5 Here, the Nominal Defendants have not consented to the jurisdiction of a United
6 States Magistrate Judge or otherwise appeared in this action. While all other parties
7 to this action have consented to the jurisdiction of a United States Magistrate Judge,
8 because the Nominal Defendants must consent before jurisdiction may vest, the
Court issues these findings and recommendations regarding Plaintiffs' motion for
default judgment.

9 *Calderon v. United States*, 1:17-CV-00040-BAM, 2019 WL 1199855, at *1 (E.D. Cal. Mar. 14,
10 2019), report and recommendation adopted sub nom. *Calderon v. Tulare Reg'l Med. Ctr.*,
11 117CV00040DADBAM, 2019 WL 1745866 (E.D. Cal. Apr. 18, 2019).

12 As the beneficial owner of 39.6% of Eian Labs Inc.'s shares (*see* Complaint ¶¶ 21, 48-51),
13 Plaintiff, to the fullest extent permissible in that capacity as a shareholder, would choose for and
14 cause Eian Labs Inc. to consent to magistrate jurisdiction in accordance with the provisions of 28
15 U.S.C. § 636(c). Nonetheless, without waiving any substantive rights or arguments in this litigation
16 unrelated to consent under § 636(c), Plaintiff believes that the beneficial owners of a majority of
17 Eian Labs Inc.'s shares must consent as well.
18

19
20 Dated: June 18, 2021

Respectfully submitted,

21 **ROCHE FREEDMAN LLP**

22 /s/ Constantine P. Economides

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